

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 4822 OF 2015

KAMLAKAR S/O YADAV SIRSATH
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S. P. Katneshwarkar.

APP for Respondent : Mr. A. S. Shinde.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 29th September, 2015.

ORDER:

. This is an application for grant of bail in Crime No.277 of 2014 registered at Chakur Police Station for the offences punishable under Sections 302, 323 and 504 of the Indian Penal Code.

2 In brief, prosecution case is as under:

i. Applicant is the husband of deceased Kalpana.

Their marriage took place before around 7 years of the incident. The couple was blessed with two daughters.

ii. On 26th October, 2014 Kalpana sustained 70% burn injuries. She was admitted to Civil Hospital, Latur. She succumbed to injuries on 9th November, 2014.

iii. On 4th November, 2014, dying declaration of victim was recorded by Out Post Incharge and also by Naib Tahsildar. In both the dying declarations Kalpana stated that Applicant had a quarrel with her on demand of money for drinking liquor. As she refused to give money Applicant / Accused poured kerosene on her and set her on fire.

3 Heard Mr. S. P. Katneshwarkar, learned counsel for Applicant and Mr. A. S. Shinde, learned APP for State.

4 It is the contention of Applicant that there was inordinate delay in lodging FIR and recording statements of witnesses showing that prosecution case is afterthought and Applicant is falsely implicated in the crime. Another contention raised on behalf of Applicant is that Medical Officer had recorded history of the patient wherein she stated that she set herself on fire. The learned counsel submits that prosecution case taken as a whole is doubtful and since custodial interrogation is not necessary Applicant be enlarged on bail.

5 Per contra Mr. A. S. Shinde, learned APP referring to the police papers submitted that the written dying declarations recorded by Out

Post Incharge and Naib Tahsildar clearly show that Applicant demanded money from his wife Kalpana for consuming liquor and as she refused, he poured kerosene on her and set her on fire. The learned APP submitted that besides the written dying declarations evidence in the form of oral dying declarations is also available against Applicant. It appears from the police papers that Investigating Officer has recorded statements of Gandharbai Dandge, Balaji Mohale, Surekha Sirsath and Datta Kamble. Kalpana disclosed to these witnesses that there was quarrel between her and Applicant / Accused on the point of demand of money for drinking liquor and thereafter, Applicant / Accused poured kerosene on her and set her ablaze.

6 Considering the consistent dying declarations recorded during investigation, involvement of Applicant in serious crime is *prima facie* apparent at this stage. Thus it would not be appropriate to enlarge him on bail.

7 Criminal Application No.4822 of 2015 stands rejected.

[INDIRA K. JAIN, J.]